THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

Writ Petition No.17428 of 2004

Dated: 08-10-2007

Between:

V.Balachandra @ Babu

Petitioner

And

The Deputy Superintendent of Police

Kurnool and another

Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

Writ Petition No.17428 of 2004

ORDER:

1 Petitioner against whom a rowdy sheet was opened filed this

petitioner questioning opening of rowdy sheet against him.

2 The case of the respondents as disclosed from the counter affidavit filed on their behalf is that inasmuch as the petitioner is involved in cases of breach of peace and as one criminal case is pending against him in Cr.No.78 of 2004 on the file of the Court of the Judicial Magistrate of I Class, Pathikonda, in view of the Police Standing Orders No.742, there are no grounds to close the rowdy sheet against the petitioner.

3 The contention of the learned counsel for the petitioner is that the rowdy sheet against the petitioner was opened on the ground that he was involved in five cases and petitioner was acquitted after trial in four cases and only one case is pending against him and in view thereof the continuation of rowdy sheet against him is improper. He relied on ***K.Murali Venkata Srinivas Vs. Government of Andhra Pradesh; Home Department***[1], ***S.Ramulu Vs. Superintendent of Police, Mehaboobnagar***[2], ***Sunkara Satyanarayana Vs. State of Andhra Pradesh, Home Department***[3] and ***Mirza Nayeem Baig Vs Deputy Commissioner of Police, West Zone, Hyderabad***[4] in support of his contention. Heard the learned Government Pleader for Home.

4 The fact that the petitioner was acquitted in four out of five criminal cases pending against him is admitted by the respondents in the counter affidavit filed by the Station House Officer Gonegandla Police station on their behalf. What is stated in para 3 of the counter affidavit is that

> "……. I submit that the petitioner was involved in 5 (five) criminal cases. They are 1) Cr.No.36/96 under Secs.147, 148, 324, 428, 427, 436, 307, 302 read with 149 IPC and Sec.3 and 5 of the Explosives Substance Act, 2) Cr.No.28/2000 under Sec.147, 148, 307, 324, 326 read with 149 IPC, 3) Cr.No.32/01 under Sec.354 IPC, 4) Cr.No.63/02 under Sec.324 IPC and 5) Cr.No.78/04 under Section 323, 506 IPC. I submit that out of above five cases, 4 have ended in acquittal and Cr.No.78/04 is still pending on the file of the Hon'ble JFCM at Pathikonda of Kurnool District. I submit that mere acquittal in the above four cases, does not bar the respondents herein to continue the rowdy sheet against the petitioner."

5 Since acquittal in a criminal case wipes out of the stigma on the person accused of the offence, he cannot be said to be involved in the crime in which he was acquitted. So technically speaking there is only one crime pending against the petitioner by the date of filing of the writ petition. It is well known that mere pendency of one criminal case is not sufficient to open or continue the rowdy sheet. So there was no reason for the respondents to continue the rowdy sheet against the petitioner after he was acquitted in four out of the five criminal cases registered against him.

6 K. Murali Venkata Srinivas case (1 supra) relied on by the learned counsel for the petitioner has no application to this case because it relates to history sheet, which is different from rowdy sheet, though the ingredients for opening of the history sheet may be the same. In view of the ratio in Sunkara Satyanarayana case (3 supra) I am of the considered opinion that continuance of rowdy sheet against the petitioner is unwarranted and unnecessary.

7 Therefore, the petition is allowed. The rowdy sheet opened against the petitioner is ordered to be quashed. Parties are directed to

bear their own costs.

Justice C.Y.Somayajulu

08-10-2007
kvsn

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[1] 1999 (5) ALT 492
[2] 1999 (6) ALD 681
[3] 1999 (6) ALT 249
[4] 2002 (2) ALD (Crl.) 348